

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

VICTOR GONZALEZ LASALLE

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

CIVIL NO. 05-1682 (DRD)

**REPORT AND RECOMMENDATION**

Petitioner's Section 2255 Motion must be summarily DENIED. First, the same is time-barred. He was sentenced on February 27, 2003 and did not appeal; his 2255 motion was filed on June 23, 2005 — over two years later. Second, petitioner claims a Blakely-Booker error. The First Circuit, however, has ruled that a 2255 petitioner is unavailable to advance a Booker claim, absent a Supreme Court decision to the contrary. See United States v. Fraser, 407 F. 3d 9, 11 (1<sup>st</sup> Cir. 2005).

Under the provisions of 28 U.S.C. § 636 and Local Rule 72(d), District of Puerto Rico, any party who objects to this report and recommendation must file a written objection thereto with the Clerk of the Court within ten (10) days of the party's receipt of this report and recommendation. The written objections must specifically identify the portion of the recommendation, or report to which objection is made and the basis for such objections. Failure to comply with this rule precludes further appellate review. See Thomas v. Arn, 474 U.S. 140, 155 (1985), reh'g denied, 474 U.S. 1111(1986); Davet v. Maccorone, 973 F.2d 22, 30-31 (1<sup>st</sup> Cir. 1992).

**SO RECOMMENDED.**

Date: June 19, 2006

*Gustavo A. Gelpi*  
GUSTAVO A. GELPI  
United States Magistrate Judge

